

4/14/92

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	C.A. No. 91-CV578-JLF
)	
v.)	
)	
NL INDUSTRIES, INC.,)	
)	
Defendants.)	
)	
and)	
)	
CITY OF GRANITE CITY, ILLINOIS,)	
LAFAYETTE H. HOCHULI, and)	
DANIEL M. MCDOWELL)	
)	
Intervenor-Defendants.)	
)	
)	

ST. LOUIS LEAD RECYCLERS' RESPONSE TO
UNITED STATES' SUPERSEDING INTERROGATORIES

COMES NOW St. Louis Lead Recyclers ("SLLR"), by and through its attorneys, Armstrong, Teasdale, Schlafly & Davis, and objects and answers the United States' Superseding Interrogatories as follows:

OBJECTIONS TO PLAINTIFF'S
DEFINITIONS AND INSTRUCTIONS

SLLR objects to the following General Instructions contained in the United States' First Set of Interlocking Requests for Admission, Interrogatories, and Requests for Production of Documents to Generator Defendants, which are incorporated by reference in the United States' Superseding Interrogatories and Request for Production of documents to Defendants. The paragraph numbers used below correspond to those used in Plaintiff's Instructions.



A., C. SLLR objects to the requirement that SLLR obtain information beyond that which is in SLLR's possession, custody or control.

F. SLLR objects to the description of these interrogatories and production requests as "continuing" and the requirement of further and supplemental responses to the extent the Instruction imposes requirements beyond Rule 26(e) of the Federal Rules of Civil Procedure.

O. SLLR objects to any requirement that it give an "estimate" of figures or dates.

OBJECTIONS TO PLAINTIFF'S DEFINITIONS

SLLR objects to the following definitions contained in the United States' First Set of Interlocking Requests for Admission, Interrogatories, and Requests for Production of Documents to Generator Defendants, which are incorporated by reference in the United States' Superseding Interrogatories and Request for Production of Documents to Defendants. The number(s) preceding the following paragraphs correspond to specifically enumerated Definitions contained in Plaintiff's Definitions.

F., PP. SLLR objects to the definitions of "document", and "you" to the extent the definitions include information protected by the attorney-client privilege, the work product doctrine, or other applicable privileges, and to the extent they include information prepared in anticipation of litigation or trial preparation. SLLR further objects to these definitions to the extent they include information or documentation not relevant to

the issues of this lawsuit nor reasonably calculated to lead to the discovery of admissible evidence.

GENERAL OBJECTIONS

SLLR hereby incorporates each of the following General Objections into each response. These General Objections are a part of the response to each and every Interrogatory and are set forth here to avoid the duplication of restating each objection in each response. The General Objections may be specifically referred to in a response to certain Interrogatories for the purpose of clarity. However, the failure to specifically incorporate a General Objection should not be construed as a waiver of its General Objections.

1. Response Time. The United States claims that all answers to its Requests for Admission are due in 10 days. Rules 33 and 34 of the Federal Rules of Civil Procedure provided for 30 days. At the February 25, 1992 Status Conference, the Defendants agreed to answer previously propounded discovery relevant to Phase I as identified in the Case Management Order within 10 days. SLLR objects to the foreshortened response period to the extent that the United States' superseding discovery requests contain questions which are not identical to the United States' previously propounded discovery requests.

2. Privileges. SLLR objects to the Interrogatories and Requests for Production of Documents to the extent that they call for disclosure of information protected by the attorney-client privilege, work-product, or other applicable privileges, and will not disclose such information.

3. Relevance. SLLR objects to the Interrogatories and Requests for Production of Documents to the extent that they seek information or documentation not relevant to the issues raised in this lawsuit and are not reasonably calculated to lead to the discovery of relevant and admissible information or documents. Nothing herein shall be construed as an admission by this Defendant respecting the admissibility or relevance of any fact or document, or as an admission of the truth or accuracy of any characterization description or definition contained in the Plaintiff's Interrogatories.

4. Information Within Plaintiff's Possession. SLLR objects to the Interrogatories and Requests for Production of Documents as unduly burdensome and oppressive insofar as they seek information already in Plaintiff's knowledge, possession, and/or control.

5. Premature. SLLR objects to the Interrogatories as being unduly burdensome and speculative to the extent that they request SLLR to exhaustively state the facts supporting their present contentions and speculate as to their future contentions prior to the completion of discovery. SLLR's search for documents and its investigation are ongoing. SLLR reserves its right to rely on any facts, documents or other evidence which may develop or may come to its attention at a later date.

6. Information Not In SLLR's Control. SLLR objects to the interrogatories to the extent it is asked to speculate about or provide information not in its possession, custody or control.

ANSWERS TO INTERROGATORIES

1. Explain in detail the circumstances surrounding your knowledge that U.S. EPA issued its proposed plan for the Site on January 10, 1990, including the date you first learned that the proposed plan for the Site was issued by U.S. EPA, and identify all persons who knew of the above dates.

Answer: SLLR incorporates by reference the foregoing Objections. Without waiving said objections, SLLR states that it received a copy of the proposed plan sometime in late January 1990. SLLR does not recall who provided the proposed plan.

2. Explain in detail the circumstances surrounding your receipt of U.S. EPA's proposed plan for the Site, including, the date when you first received a copy of the proposed plan for the Site, and identify all persons who delivered a copy of the proposed plan to you and all persons who received a copy of the proposed plan for you for the Site on that date.

ANSWER: SLLR incorporates by reference the foregoing Objections. Without waiving said objections, SLLR incorporates its answer to the previous interrogatory.

3. Identify each person whom you plan to call as a fact witness at trial on Phase I issues, and as to each state the subject matter of his or her testimony and the factual basis for that testimony.

ANSWER: SLLR incorporates by reference the foregoing Objections. Further objecting, SLLR states that Interrogatory No. 3 is beyond the scope of permissible discovery.

4. Identify all meetings you attended and/or were invited to attend with U.S. EPA or any other PRP or defendant in this case concerning the Site through March 30, 1990, including the dates, places, times, subject matter and persons attending those meetings.

ANSWER: SLLR incorporates by reference the foregoing Objections. Without waiving said objections, SLLR states that counsel for SLLR (George von Stamwitz) attended a meeting on December 18, 1989 in Chicago, Illinois to which SLLR had been summoned by U.S. EPA in correspondence of November 28, 1989. Numerous parties were in attendance. U.S. EPA (Steven Siegel, Brad Bradley) discussed the CERCLA process in general and summarized site activity preceding the meeting. It described the alternatives set forth in the draft FS submitted by NL Industries and the alternative it intended to add. Agency representatives then laid out a tentative schedule for site-related functions. The pre-ROD comment period was expected to close in early February, the ROD was expected to be issued by March 31, 1990, and a special notice letter would probably be issued in February, 1990. The agency wanted to complete negotiations by June, 1990. The Region V FOIA officer was identified, and a procedure for obtaining documents

related to potential liability was discussed. However, a final volumetric list had not yet been produced.

SLLR has learned that U.S. EPA held an informal meeting in Granite City on March 5, 1990. SLLR did not attend that meeting and cannot recall when it learned of the meeting.

5. Identify all documents you copied, received or reviewed before March 30, 1990 from the documents maintained in the local Site files at the Granite City Library, the files at Region V, U.S. EPA, or any other document contained in the Administrative Record for the Site from any PRP or defendant, including the dates when those documents were copied, received or reviewed and from where.

ANSWER: SLLR incorporates by reference the foregoing Objections. SLLR further objects to the question as vague and incomprehensible. Without waiving said objections, SLLR states that it did not review any files at the Granite City Library or the files at Region V concerning the Site prior to March 30, 1990. In late January 1990, SLLR received a Draft Feasibility Study for the Taracorp Site dated August 1989, an Addendum to the Draft Feasibility Study Report dated January 10, 1990, and the proposed plan dated January 10, 1990. SLLR does not recall how it obtained these documents.

6. Do you contend that the remedy selected by U.S EPA for the Site, and embodied in the ROD, is arbitrary and capricious or

otherwise not in accordance with law. If so, state each and every fact or other item of information relating to or supporting your contention and cite with specificity all portions of the Administrative Record, the NCP, and any other law that supports your contention.

ANSWER: SLLR incorporates by reference the foregoing Objections. Further objecting, SLLR states that Interrogatory No. 6 is beyond the scope of permissible discovery and cannot be answered in any logical manner. Without waiving said objections, SLLR states that U.S. EPA's decision regarding the site is arbitrary and capricious and otherwise not in compliance with law. See SLLR's answer in this action. See generally all communications of whatever kind between U.S. EPA and SLLR or any other party discussing the shortcomings of U.S. EPA's decision.

7. Do you contend that the Administrative Record is incomplete or does not support the ROD? If so, state each and every fact or other item of information relating to or supporting your contention, and identify specifically each portion of the Administrative Record that is incomplete or does not support the remedy and identify all documents or facts that you contend should be included in the Administrative Record.

ANSWER: SLLR incorporates by reference the foregoing Objections. Further objecting, SLLR states that Interrogatory No. 7 is beyond the scope of permissible discovery and cannot be answered in any

logical manner. Without waiving said objections, SLLR states that the administrative record does not support the choice of remedy set forth in the Record of Decision. It is also incomplete. See SLLR's answer in this action. See generally all communications of whatever kind between U.S. EPA and SLLR or any other party discussing the shortcomings of U.S. EPA's decision, all of which should be included in the administrative record, as well as documents reasonably relating to such communications and documents necessary to support a legal decision.

ST. LOUIS LEAD RECYCLERS' RESPONSE TO
UNITED STATES' SUPERSEDING
REQUEST FOR PRODUCTION OF DOCUMENTS

Requests for Production of Documents:

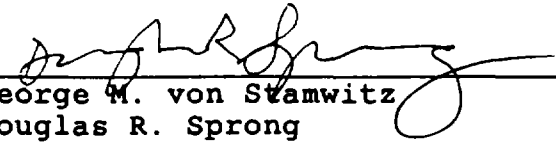
Produce all documents not in the Administrative Record identified in, referred to, or used in any way in responding to the foregoing Interrogatories and Requests for Admission.

Response: SLLR incorporates by reference the foregoing objections.

Without waiving said objections, responsive documents will be produced.

Submitted this 14th day of April, 1992.

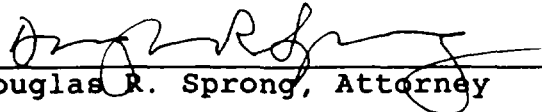
ARMSTRONG, TEASDALE, SCHLAFLY &
DAVIS

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Attorneys for St. Louis Lead
Recyclers

CERTIFICATION

Douglas R. Sprong, being duly sworn, states that he is an attorney employed by St. Louis Lead Recyclers, and is authorized to sign these interrogatory answers on its behalf; that he has read the foregoing answers of St. Louis Lead Recyclers to the United States' Superseding Interrogatories and is familiar with the contents thereof; and that to the best of his knowledge, information, and/or belief, those answers (excluding objections) are true.


Douglas R. Sprong, Attorney

Subscribed and sworn to before me this 14th day of April, 1992.


Notary Public

My Commission Expires:
KAREN S. NEWELL, NOTARY PUBLIC
Jefferson County, State of Missouri
My Commission Expires 4-27-92
